

[COMMITTEE PRIST]

JUNE 10, 1997

**[PROPOSED RECONCILIATION PROVISION  
AS APPROVED BY THE SUBCOMMITTEE  
ON TELECOMMUNICATIONS, TRADE, AND  
CONSUMER PROTECTION  
ON JUNE 10, 1997]**

1       **TITLE III-COMMITTEE ON**  
2       **COMMERCE**

3       **Subtitle D-Communications**

4 **SEC. 3301. SPECTRUM AUCTIONS.**

5       (a) **EXTENSION AND EXPANSION OF AUCTION AU-**  
6 **THORITY.—**

7           (1) **AMENDMENTS.**—Section 309(j) of the Com-  
8       munications Act of 1934 ( 47 U.S.C. 309(j)) is  
9       amended—

10           (A) by striking paragraphs ( 1 ) and (2) and  
11       inserting in lieu thereof the following:

12           “(1) **GENERAL AUTHORITY.**—If, consistent with  
13       the obligations described in paragraph (6)(E), mutu-  
14       ally exclusive applications are accepted for any ini-  
15       tial license or construction permit which will involve  
16       an exclusive use of the electromagnetic spectrum,  
17       then the Commission shall grant such license or per-

1 mit to a qualified applicant through a system of  
2 competitive bidding that meets the requirements of  
3 this subsection.

4 “(2) EXEMPTIONS.—The competitive bidding  
5 authority granted by this subsection shall not apply  
6 to licenses or construction permits issued by the  
7 Commission—

8 “(A) that, as the result of the Commission  
9 carrying out the obligations described in para-  
10 graph (6)(E), are not mutually exclusive;

11 “(B) for public safety radio services, in-  
12 cluding non-Government uses, that protect the  
13 safety of life, health, and property and that are  
14 not made commercially available to the public;

15 “(C) for initial licenses or construction  
16 permits assigned by the Commission to existing  
17 terrestrial broadcast licensees for new terres-  
18 trial digital television services; or

19 “(D) for public telecommunications serv-  
20 ices, as defined in section 397( 14) of the Com-  
21 munications Act of 1934 (47 U.S.C. 397(14)),  
22 when the license application is for channels re-  
23 served for noncommercial use.”;

24 (B) by striking the third sentence of para-  
25 graph (8)(B);

1 (C) by striking “1998” in paragraph (11)  
2 and inserting “2002”; and

3 (D) in paragraph (13)(F). by striking  
4 “September 30, 1998” and inserting “the date  
5 of enactment of the Balanced Budget Act of  
6 1997”.

7 (2) CONFORMING AMENDMENT.—Subsection (i)  
8 of section 309 of the Communications Act of 1934  
9 (47 U.S.C. 309(i)) is repealed.

10 (3) EFFECTIVE DATE .—The amendment made  
11 by paragraph (1)(A) shall not apply with respect to  
12 any license or permit for which the Federal Commu-  
13 nications Commission has accepted mutually exclu-  
14 sive applications on or before the date of enactment  
15 of this Act.

16 (b) COMMISSION OBLIGATION TO MAKE ADDITIONAL  
17 SPECTRUM AVAILABLE BY AUCTION.—

18 (1) IS GENERAL.—The Federal Communica-  
19 tions Commission shall complete all actions nec-  
20 essary to permit the assignment, by September 30,  
21 2002, by competitive bidding pursuant to section  
22 309(j) of the Communications Act of 1934 (47  
23 U.S.C. 309(j)) of licenses for the use of bands of  
24 frequencies that—

1 (A) individually span not less than 25  
2 megahertz. unless a combination of smaller  
3 bands can, notwithstanding the provisions of  
4 paragraph (7) of such section, reasonably be ex-  
5 pected to produce greater receipts;

6 (B) in the aggregate span not less than  
7 100 megahertz;

8 (C) are located below 3 gigahertz;

9 (D) have not, as of the date of enactment  
10 of this Act-

11 (i) been designated by Commission  
12 regulation for assignment pursuant to such  
13 section;

14 (ii) been identified by the Secretary of  
15 Commerce pursuant to section 113 of the  
16 National Telecommunications and Infor-  
17 mation Administration Organization Act;

18 (iii) been allocated for Federal Gov-  
19 ernment use pursuant to section 305 of the  
20 Communications Act of 1934 (47 U.S.C.  
21 305); or

22 (iv) been designated in section 3303  
23 of this Act; and

24 (E) shall, notwithstanding section  
25 115 (b) ( 1) (B) of the National Telecommuni-

2 cations and Information Administration Organi-  
3 zation Act (47 U.S.C. 925(b)(1)(B)) or any  
4 proposal pursuant to such section, include fre-  
5 quencies at 1,710–1,755 megahertz.

6 (2) CRITERIA FOR REASSIGNMENT.—In making  
7 available bands of frequencies for competitive bid-  
8 ding pursuant to paragraph (1), the Commission  
9 shall-

10 (A) seek to promote the most efficient use  
11 of the spectrum;

12 (B) take into account the cost to incum-  
13 bent licensees of relocating existing uses to  
14 other bands of frequencies or other means of  
15 communication; and

16 (C) comply with the requirements of inter-  
17 national agreements concerning spectrum allo-  
18 cations.

19 (3) NOTIFICATION TO NTLA.—The Commission  
20 shall notify the Secretary of Commerce if-

21 (A) the Commission is not able to provide  
22 for the effective relocation of incumbent licens-  
23 ees to bands of frequencies that are available to  
24 the Commission for assignment; and

25 (B) the Commission has identified bands  
of frequencies that are—

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1 (i) suitable for the relocation of such  
2 licensees; and

3 (ii) allocated for Federal Government  
4 use, but that could be reallocated pursuant  
5 to part B of the National Telecommuni-  
6 cations and Information Administration  
7 Organization Act (as amended by this  
8 Act).

9 (4) MINIMUM RECOVERY FOR PUBLIC RE-  
10 QUIRED.-Notwithstanding paragraph (1), if the  
11 competitive bidding conducted with respect to the  
12 frequencies required to be assigned by competitive  
13 bidding under paragraph (1) does not produce ag-  
14 gregate winning bids totaling two-thirds of  
15 \$7,500,000,000 or more, the Commission shall (A)  
16 void the competitive bidding, and (B) refrain from  
17 assigning licenses pursuant to that bidding. Nothing  
18 in this paragraph shall preclude or limit the Com-  
19 mission from assigning such frequencies by competi-  
20 tive bidding at such later date as the Commission  
21 determines, in its discretion, will better attain the  
22 objectives of recovering for the public a fair portion  
23 of the value of the public spectrum resource and  
24 avoiding unjust enrichment.

1           (5) PROTECTION OF SPACE RESEARCH USES.—

2       The licenses assigned pursuant to paragraph (1)  
3       shall require licensees to' avoid interference with  
4       communications in space research and earth explo-  
5       ration-satellite services authorized under notes 750A  
6       and US90 to section 2.106 of the regulations of the  
7       Federal Communications Commission (47 C.F.R.  
8       2.106) as in effect on the date of enactment of this  
9       Act.

10       (c) IDENTIFICATION AND REALLOCATION OF FRE-  
11       QUENCIES.—The National Telecommunications and Infor-  
12       mation Administration Organization Act (47 U.S.C. 901  
13       et seq.) is amended—

14           (1) in section 113, by adding at the end the fol-  
15       lowing new subsection:

16       “(f) ADDITIONAL REALLOCATION REPORT.—If the  
17       Secretary receives a notice from the Commission pursuant  
18       to section 3301(b)(3) of the Balanced Budget Act of 1997,  
19       the Secretary shall prepare and submit to the President,  
20       the Commission, and the Congress a report recommending  
21       for reallocation for use other than by Federal Government  
22       stations under section 305 of the 1934 Act (47 U.S.C.  
23       305), bands of frequencies that are suitable for the uses  
24       identified in the Commission's notice. The Commission  
25       shall, not later than one year after receipt of such report,

1 prepare, submit to the President and the Congress, and  
2 implement, a plan for the immediate allocation and assign-  
3 ment of such frequencies under the 1934 Act to incumbent  
4 licencees described in section 3301(b) (3) of the Balanced  
5 Budget Act of 1997.“; and

6 (2) in section 114(a)(1), by striking “(a) or  
7 (d)(1)” and inserting “(a), (d)(1), or (f)“.

8 ( d ) IDENTIFICATION AND REALLOCATION O F  
9 AUCTIONABLE FREQUENCIES.—The National Tele-  
10 communications and Information Administration Organi-  
11 zation Act (47 U.S.C. 901 et seq.) is amended-

12 (1) in section 113(b)-

13 (A) by striking the heading of paragraph  
14 (1) and inserting “INITIAL REALLOCATION RE-  
15 PORT” ;

16 (B) by inserting “in the first report re-  
17 quired by subsection (a)” after “recommend for  
18 reallocation” in paragraph (1);

19 (C) by inserting “or (3)” after “paragraph  
20 (1)” each place it appears in paragraph (2);  
21 and

22 (D) by inserting after paragraph (2) the  
23 following new paragraph;

24 “(3) SECOND REALLOCATION REPORT.—In ac-  
25 cordance with the provisions of this section, the Sec-



retary shall recommend for reallocation in the second report required by subsection (a). for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), a band or bands of frequencies that-

“(A) in the aggregate span not less than 20 megahertz;

“(B) individually span not less than 20 megahertz, unless a combination of smaller bands can reasonably be expected to produce greater receipts;

“(C) are located below 3 gigahertz; and

“(D) meet the criteria specified in paragraphs (1) through (5) of subsection (a).”; and (2) in section 115—

(A) in subsection (b), by striking “the report required by section 113 (a)” and inserting “the initial reallocation report required by section 113(a)”; and

(B) by adding at the end the following new subsection:

“(c) **ALLOCATION AND ASSIGNMENT OF FREQUENCIES IDENTIFIED IN THE SECOND REALLOCATION REPORT.**-With respect to the frequencies made available for reallocation pursuant to section 113(b) (3), the Com-

1 mission shall, not later than one year after receipt of the  
2 second reallocation report required by such section, pre-  
3 pare, submit to the President and the Congress, and im-  
4 plement, a plan for the immediate allocation and assign-  
5 ment under the 1934 Act of all such frequencies in accord-  
6 ance with section 309(j) of such Act.“.

7 **SEC. 3302. AUCTION OF RECAPTURED BROADCAST TELE-**  
8 **VISIONSPECTRUM.**

9 Section 309(j) of the Communications Act of 1934  
10 (47 U.S.C. 309(j)) is amended by adding at the end the  
11 following new paragraph:

12 “(14) AUCTION OF RECAPTURED BROADCAST  
13 TELEVISION SPECTRUM.—

14 “(A) LIMITATIONS ON TERMS OF TERRES-  
15 TRIAL TELEVISION BROADCAST LICENSES.—A  
16 television license that authorizes analog tele-  
17 vision services may not be renewed to authorize  
18 such service for a period that extends beyond  
19 December 31, 2006. The Commission shall  
20 grant by regulation an extension of such date to  
21 licensees in a market if the Commission deter-  
22 mines that more than 5 percent of households  
23 in-such market continue to rely exclusively on  
24 over-the-air terrestrial analog television signals.

1                   “(B) S P E C T R U M   R E V E R S I O N   A N D   R E -  
2                   S A L E . -

3                   “(i) The Commission shall ensure  
4                   that, when the authority to broadcast ana-  
5                   log television services under a license ex-  
6                   pires pursuant to subparagraph (A), each  
7                   licensee shall return spectrum according to  
8                   the Commission’s direction and the Com-  
9                   mission shall reclaim such spectrum.

10                  “(ii) Licensees for new services occu-  
11                  pying spectrum reclaimed pursuant to  
12                  clause (i) shall be selected in accordance  
13                  with this subsection. The Commission shall  
14                  start such selection process by July 1,  
15                  2001, with payment pursuant to rules es-  
16                  tablished by the Commission under this  
17                  subsection.

18                  “(C) M I N I M U M   R E C O V E R Y   F O R   P U B L I C   R E -  
19                  Q U I R E D . — N o t w i t h s t a n d i n g   s u b p a r a g r a p h   ( B ) ,  
20                  if the competitive bidding conducted with re-  
21                  spect to the frequencies required to be assigned  
22                  by competitive bidding under subparagraph (B)  
23                  does not produce aggregate winning bids total-  
24                  ing two-thirds of \$4,000,000,000 or more, the  
25                  Commission shall (i) void the competitive bid-

1           ding, and (ii) refrain from assigning licenses  
2           pursuant to that bidding. Nothing in this sub-  
3           paragraph shall preclude or limit the Commis-  
4           sion from assigning such frequencies by com-  
5           petitive bidding at such later date as the Com-  
6           mission determines, in its discretion, will better  
7           attain the objectives of recovering for the public  
8           a fair portion of the value of the public spec-  
9           trum resource and avoiding unjust enrichment.

10           “(D) DEFINITIONS.-As used in this para-  
11           graph:

12                   “(i) The term ‘digital television serv-  
13                   ice’ means television service provided using  
14                   digital technology to enhance audio quality  
15                   and video resolution, as further defined in  
16                   the Memorandum Opinion, Report, and  
17                   Order of the Commission entitled ‘Ad-  
18                   vanced Television Systems and Their Im-  
19                   pact Upon the Existing Television Service’,  
20                   MM Docket No. 87-2 68 and any subse-  
21                   quent Commission proceedings dealing  
22                   with digital television.

23                   “(ii) The term ‘analog television serv-  
24                   ice’ means service provided pursuant to the  
25                   transmission standards prescribed by the

1 Commission in section 73.682(a) of its reg-  
2 ulation (47 CFR 73.682(a)).”.

3 **SEC. 3303. ALLOCATION AND ASSIGNMENT OF NEW PUBLIC**  
4 **SAFETY AND COMMERCIAL LICENSES.**

5 (a) Is GENERAL.—The Federal Communications  
6 Commission, not later than January 1, 1998, shall allocate  
7 on a national, regional, or market basis, from radio spec-  
8 trum between 746 megahertz and 806 megahertz—

9 (1) up to 24 megahertz of that spectrum for  
10 public safety services according to terms and condi-  
11 tions established by the Commission; and

12 (2) the remainder of that spectrum for commer-  
13 cial purposes to be assigned by competitive bidding  
14 in accordance with section 309(j).

15 (b) ASSIGNMENT.—The Commission shall-

16 (1) assign the licenses for public safety created  
17 pursuant to subsection (a) no later than March 3 1,  
18 1998; and

19 (2) commence competitive bidding for the com-  
20 mercial licenses created pursuant to subsection (a)  
21 no later than July 1, 2001.

22 (c) CONDITIONS ON LICENSES.—With respect to  
23 public safety and commercial licenses granted pursuant to  
24 this subsection, the Commission shall-

1           (1) establish interference limits at the bound-  
2           aries of the spectrum block and service area:

3           (2) establish any additional technical restric-  
4           tions necessary to protect full-service analog tele-  
5           vision service and digital television service during a  
6           transition to digital television service; and

7           (3) permit public safety and commercial licens-  
8           ees -

9                   (A) to aggregate multiple licenses to create  
10           larger spectrum blocks and service areas; and

11                   (B) to disaggregate or partition licenses to  
12           create smaller spectrum blocks or service areas.

13       (d) **MINIMUM RECOVERY FOR PUBLIC REQUIRED.**—  
14       Notwithstanding subsections (a) and (b), if the competi-  
15       tive bidding conducted with respect to the frequencies re-  
16       quired to be assigned by competitive bidding under this  
17       section does not produce aggregate winning bids totaling  
18       two-thirds of \$1,900,000,000 or more, the Commission  
19       shall (1) void the competitive bidding, and (2) refrain from  
20       assigning licenses pursuant to that bidding. Nothing in  
21       this subparagraph shall preclude or limit the Commission  
22       from assigning such frequencies by competitive bidding at  
23       such later date as the Commission determines, in its dis-  
24       cretion, will better attain the objectives of recovering for

1 the public a fair portion of the value of the public spec-  
2 trum resource and avoiding unjust enrichment.

3 (e) PROTECTION OF QUALIFYING LOW-POWER STA-  
4 TIONS.—Prior to making any allocation or assignment  
5 under this section the Commission shall assure that each  
6 qualifying low-power television station is assigned a fre-  
7 quency below 746 megahertz to permit the continued oper-  
8 ation of such station.

9 (f) DEFINITIONS.—For purposes of this section:

10 (1) COMMISSION.—The term “Commission”  
11 means the Federal Communications Commission.

12 (2) DIGITAL TELEVISION SERVICE.—The term  
13 “digital television service” means television service  
14 provided using digital technology to enhance audio  
15 quality and video resolution, as further defined in  
16 the Memorandum Opinion, Report, and Order of the  
17 Commission entitled ‘Advanced Television Systems  
18 and Their Impact Upon the Existing Television  
19 Service’, MM Docket No. 87-268 and any subse-  
20 quent Commission proceedings dealing with digital  
21 television.

22 (3) ANALOG TELEVISION SERVICE.—The term  
23 “analog television service” means services provided  
24 pursuant to the transmission standards prescribed

1 by the Commission in section 73.682 (a) of its regu-  
2 lation (47 CFR 73.682(a)).

3 (4) PUBLIC SAFETY SERVICES.-The term  
4 “public safety services” means services-

5 (a) the sole or principal purpose of which  
6 is to protect the safety of life, health, or prop-  
7 er@;

8 (B) that are provided-

9 (i) by State or local government enti-  
10 ties; or

11 (ii)- by nongovernmental, private orga-  
12 nizations that are authorized by a govern-  
13 mental entity whose primary mission is the  
14 provision of such services; and

15 (C) that are not made commercially avail-  
16 able to the public by the provider.

17 (5) SERVICE AREA.—The term “service area”  
18 means the geographic area over which a licensee  
19 may provide service and is protected from inter-  
20 ference.

21 (6) SPECTRUM BLOCK.-The term “spectrum  
22 block” means the range of frequencies over which  
23 the apparatus licensed by the Commission is author-  
24 ized to transmit signals.



1           (7) QUALIFYING LOW-POWER TELEVISION STA-  
2           TIONS.—A station is a qualifying low-power tele-  
3           vision station if-

4                   (A) during the 90 days preceding the date  
5                   of enactment of this Act-

6                           (i) such station broadcast a minimum  
7                           of 18 hours per day;

8                           (ii) such station broadcast an average  
9                           of at least 3 hours per week of program-  
10                          ming that was produced within the com-  
11                          munity of license of such station; and

12                          (iii) such station was in compliance  
13                          with the requirements applicable to low-  
14                          power television stations; or

15                   (B) the Commission determines that the  
16                   public interest, convenience, and necessity  
17                   would be served by treating the station as a  
18                   qualifying low-power television station for pur-  
19                   poses of this section.